

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEVEN BRUCE,

Plaintiff,

v.

ALEX M. AZAR, et al.,

Defendants.

Case No. 18-cv-05022-HSG

**ORDER DIRECTING ADDITIONAL  
BRIEFING AND DENYING MOTION  
FOR LEAVE TO FILE A REPLY**

Re: Dkt. Nos. 65, 66, 67

**I. BACKGROUND**

On October 25, 2018, Plaintiff Steven Bruce filed a motion to supplement the administrative record (“AR”), alleging that the AR did not include “the FDA label for Serostim and the AHFS-DI compendium for Serostim.” Dkt. No. 24 at 2. Defendant opposed the motion as premature, based on the anticipated AR production date of December 19, 2018. Dkt. No. 34 at 3–4.

On January 30, 2019, the parties submitted a joint statement, noting that “the FDA label and AFHS-compendium for the drug Serostim are not in the AR,” and that “Defendant [] agreed to supplement the AR with these documents and lodge the certified record, with the additions, by February 6, 2019.” Dkt. No. 61. The Court vacated the hearing date on Plaintiff’s motion to supplement in light of the parties’ joint filing, and directed Plaintiff to file a statement indicating whether the issue had been resolved on February 7, 2019. Dkt. No. 62.

Plaintiff filed a statement on February 6, 2019 indicating that, “[a]lthough DHHS has supplemented the record with the FDA label for Serostim,” Defendant had not provided “the compendium AHFSDI, contending that no entry for Serostim was in the compendium.” Dkt. No. 65 at 2. Plaintiff’s statement indicates that Plaintiff still seeks information relating to somatotropin, which Plaintiff alleges is the generic compound of the drug Serostim. *Id.*

1 Defendant filed a separate statement on the February 7, 2019 deadline, disputing Plaintiff's  
2 contention that the requested supplementation had not been provided. Dkt. No. 66. Plaintiff  
3 subsequently filed an administrative motion for leave to file a reply to Defendant's statement.  
4 Dkt. No. 67.


5 **II. DISCUSSION**

6 The scope of Plaintiff's motion to supplement has changed considerably, such that the  
7 briefing originally submitted to the Court does not address the present dispute. Therefore, the  
8 Court **DIRECTS** Plaintiff to file a fully-noticed motion to supplement the administrative record  
9 addressing the present dispute on or before February 22, 2019. If no dispute exists as of that date,  
10 the Court **DIRECTS** Plaintiff to withdraw the still-pending motion to supplement, Dkt. No. 24.

11 Plaintiff's motion for leave to file a reply, Dkt. No. 67, is **DENIED**.

12 **IT IS SO ORDERED.**

13 Dated: 2/12/2019

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15 HAYWOOD S. GILLIAM, JR.  
16 United States District Judge  
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